



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

January 18, 2017

Stephen Twyerould  
Excelsior President and CEO  
Excelsior Mining Arizona, Inc.  
2999 North 44<sup>th</sup> Street, Suite 300  
Phoenix, AZ 85018

**RE: Class III Underground Injection Control Well Permit Application  
Excelsior Mining Arizona, Inc.**

Dear Mr. Twyerould:

I am writing to respond to your December 22, 2016 letter regarding our December 2016 meeting and Excelsior's Underground Injection Control (UIC) Permit application for the proposed Gunnison Copper Project, Cochise County, Arizona. The United States Environmental Protection Agency, Region IX (EPA) continues to review the Class III UIC Permit application dated March 2016 (the UIC Permit application) and additional information dated December 14, 2016 for the proposed project. Your letter discussed a number of issues which I address below. Our upcoming meeting scheduled for January 24, 2017 will provide us additional opportunity to discuss these issues, in addition to the issues addressed in your December 14, 2016 submittal.

As your letter notes, we committed to sending you a request for any additional information we need pertaining to other Federal laws, including the Wild and Scenic Rivers Act, the National Historic Preservation Act, the Endangered Species Act, the Coastal Zone Management Act, and the Fish and Wildlife Coordination Act. Consideration of these laws is required (see 40 CFR section 144.4) to ensure that injection operations do not adversely affect other important nearby resources and sensitive areas. EPA does need some additional information to ensure compliance with these other federal acts. The information that EPA needs is described in the Enclosure. After receipt of the information, EPA will be able to provide a full project description to the appropriate agencies and conduct any necessary consultation.

Your letter also requested information about comments submitted to EPA regarding the proposed Gunnison Copper Project. First, to be clear, EPA is not concerned about public input on projects we are evaluating. As Nancy Rumrill noted, one local resident has expressed general concern about the potential for the Gunnison Copper Project to impact the Dragoon drinking water aquifer. In addition, a Washington, DC-based group called Earthworks Organization submitted a Freedom of Information Act (FOIA) request for Excelsior's UIC permit application, which we provided to them. Mention of these contacts is just done as a courtesy to you for informational purposes. Once EPA has completed our permit application review and drafted a proposed UIC permit, we will formally solicit public input. EPA's final permit decision-making will address any public input received during the formal public comment period. For additional detail regarding the public process, please refer to 40 CFR part 124, subpart A.

Another issue mentioned in your letter, and one that we discussed at our December 2016 meeting in Phoenix, is financial assurance. As you noted, Excelsior provided estimated closure costs to EPA. In our request for information dated October 14, 2016, we provided a number of cost-related comments regarding the information you provided and we requested additional information under the Attachment R-1, R-2, and R-3 headings. If we have questions about the additional information you provided, we can discuss at next week's meeting. Also, as we noted in the December 2016 meeting, we support the goal of structuring financial responsibility in a way that avoids duplication of bonding requirements under state and federal permits.


Lastly, your letter encourages regular meetings between EPA, ADEQ, and Excelsior "to discuss concerns, answer questions, and make requests for additional information more efficiently and frequently." We agree that such meetings can be an efficient way to accomplish these tasks and EPA is happy to accommodate this request, as warranted. In addition, there are likely to be instances where EPA will need to document discussions in writing, provide written clarification of an issue, or request additional information from the applicant. As we continue to review your application, we will endeavor to balance these approaches in a way that is most efficient and effective for all parties.

Please address the items noted in the Enclosure by submitting two copies of the response in hard copy, and one in electronic format. Please submit the information to:

Attn: Nancy Rumrill  
U.S. EPA Region IX, (WTR-3-2)  
75 Hawthorne Street  
San Francisco, CA 94105

I look forward to our meeting next week. In the meantime, if you have any questions please call me at 415-972-3971.

Sincerely,

A handwritten signature in black ink, appearing to read 'D Albright', with a stylized flourish at the end.

David Albright  
Manager, Drinking Water Protection Section

Enclosure

cc w/enc: Maribeth Greenslade, ADEQ (via e-mail)

**ENCLOSURE**  
**Request for Additional Information**  
**Excelsior Mining Arizona Gunnison Copper Project, Class III UIC Permit Application**  
**January 18, 2017**

1. Submit a brief description of the entire project, that includes the Pipeline Drain pond and the pipeline to Johnson Camp. This information is necessary to consider any potential effects to resources regulated by the National Historic Preservation Act or the Endangered Species Act from the entire project. In addition, provide a map of the entire project area that includes any significant ground disturbance expected, such as infrastructure improvements and any other new construction. This map should not be limited to the Area of Review.
2. Provide the Darling Environmental and Surveying, Ltd., 2015, Gunnison Project 2014 State Land Threatened and Endangered Species Analysis: Internal Excelsior Mining Corp. report. If a Threatened and Endangered Species list is not included in this document, please provide a list of species that may be present in the general area, even if not present within the project area.
3. If there are any proposed or listed species that are or may be present in the project area, provide a biological determination or “evaluation” for each regarding the potential effects of the project as described in Section 7 of the Endangered Species Act.

